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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,976	09/30/2003	Richard William Glew	BTW-014	7682
959	7590	12/21/2004	EXAMINER	
LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			SMOOT, STEPHEN W	
			ART UNIT	PAPER NUMBER
			2813	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/676,976	GLEW ET AL.	
	<b>Examiner</b> Stephen W. Smoot	<b>Art Unit</b> 2813	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 30 September 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 3-14 is/are allowed.

6)  Claim(s) 1 and 15 is/are rejected.

7)  Claim(s) 2 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 30 September 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
    - Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

This Office action is in response to application papers filed on 30 September 2003.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Urakami et al. (US 6,406,982 B2).

Referring to Figs. 8A-8D and column 14, line 35 to column 16, line 28, Urakami et al. teach a method of filling a trench with epitaxial silicon that includes the following features:

- A mask oxide (102) is used to define trenches (103) in a silicon substrate (101);

- An epitaxial film (106) is formed over the silicon substrate (101) by a single LP-CVD step to fill the trenches (103) such that the epitaxial film is thicker over the trenches (103) than elsewhere on the substrate (101);
- The epitaxial film (106) is flattened to the top level of the substrate (101) as shown in Fig. 8D by removing the epitaxial film above the trenches (103); and
- Wet or dry etching methods can be used for the flattening step.

These are all of the limitations set forth in claim 1 of the applicant's invention.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rice (US 3,574,008) in view of Urakami et al. (US 6,406,982).

Referring to Figs. 1a-1e and column 3, line 16 to column 4, line 63, Rice discloses a method of selectively growing epitaxial silicon that includes the following features:

- Openings (14) are formed in a silicon dioxide layer (12) to expose selected areas of a wafer (10);

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- Epitaxial silicon (20) is grown over the wafer (10) in a single growth step;
- The epitaxial silicon (20) is mushroom shaped with a larger thickness directly over the openings (14) than elsewhere on the wafer (10); and
- The epitaxial silicon (20) is subsequently flattened as shown in Fig. 1e resulting in a first thickness corresponding to the openings and a second thickness corresponding to elsewhere.

These are limitations set forth in claim 15 of the applicant's invention.

However, Rice does not teach or suggest etching to flatten the epitaxial silicon (20), which is a limitation set forth in claim 15 of the applicant's invention.

Urakami et al. teach that either dry etching or wet etching can be used to flatten an epitaxial silicon film (see column 14, lines 17-29).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Rice by substituting an etching step, as taught by Urakami et al., in order to flatten the epitaxial silicon of Rice.

Urakami et al. recognize that etching is an alternative way to flatten epitaxial silicon (see column 14, lines 25-26).

#### ***Allowable Subject Matter***

5. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

6. Claims 3-14 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

- Claim 2 would be allowable because the prior art of record does not teach or suggest, in combination with the other claim limitations, a method of forming a layer in a selected area on a wafer in a single growth step that includes the steps of growing a layer with a thickness that is greater in a selective area growth region than it is elsewhere on the wafer and etching the layer to leave a thickness of the layer in the selective area growth region while removing the layer from elsewhere on the wafer, wherein the growth step is a metalorganic epitaxial CVD method;
- Claims 3-14 are allowed because the prior art of record does not teach or suggest, in combination with the other claim limitations, a method of integrating optical devices on a wafer that includes the steps of growing an optical device layer with a thickness that is greater in a selective area growth region than it is in an adjacent planar region and etching the optical device layer to leave a thickness of the optical device layer in the selective area growth region while removing the optical device layer from the adjacent planar region.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Doo teaches a method of selectively growing silicon carbide. Salerno et al., Okamoto et al., and Itagaki et al. teach selective growth methods that utilize dielectric masks. Jeon et al. teach a method that features a laser integrated with a waveguide. Yamauchi et al. teach a method of selectively filling a trench with epitaxial silicon.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen W. Smoot whose telephone number is 571-272-1698. The examiner can normally be reached on M-F (8:00 am to 4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Whitehead, Jr. can be reached on 571-272-1702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sws

Stephen W. Smoot  
Patent Examiner  
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